

No. 1996-168

AN ACT

HB 299

Amending Title 20 (Decedents, Estates and Fiduciaries) of the Pennsylvania Consolidated Statutes, allowing owners of securities to register the title to same in transfer-on-death form; and providing for reports for school district trustees.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Title 20 of the Pennsylvania Consolidated Statutes is amended by adding a chapter to read:

CHAPTER 64
TRANSFER ON DEATH SECURITY REGISTRATION

Sec.

- 6401. Definitions.
- 6402. Registration in beneficiary form.
- 6403. Law applicable to registration.
- 6404. Origination of registration in beneficiary form.
- 6405. Form of registration in beneficiary form.
- 6406. Effect of registration in beneficiary form.
- 6407. Ownership on death of owner.
- 6408. Protection of registering entity.
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- 6410. Terms, conditions and forms for registration.
- 6411. Transfers of securities and security accounts.
- 6412. Construction of chapter.
- 6413. Application of chapter.

§ 6401. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Beneficiary form.” A registration of a security which indicates the present owner of the security and the intention of the owner regarding the person who will become the owner of the security upon the death of the owner.

“Financial institution.” Any regulated financial institution insured by the Federal Deposit Insurance Corporation or its successor or an affiliate of the financial institution.

“Heirs.” Those persons, including the surviving spouse, who are entitled under the statutes of intestate succession to the property of a decedent.

“Person.” An individual, a corporation, an organization or other legal entity.

“Personal representative.” The term includes an executor, administrator, successor personal representative, special administrator and persons who perform substantially the same function under the law governing their status.

“Property.” The term includes both real and personal property or any interest therein and anything that may be the subject of ownership.

“Register.” To issue a certificate showing the ownership of a certificated security or, in the case of an uncertificated security, to initiate or transfer an account showing ownership of securities.

“Registering entity.” A person who originates or transfers a security title by registration. The term includes a broker maintaining security accounts for customers and a transfer agent or other person acting for or as an issuer of securities.

“Security.” A share, participation or other interest in property, in a business or in an obligation of an enterprise or other issuer. The term also includes a certificated security, an uncertificated security and a security account.

“Security account.”

(1) A reinvestment account associated with a security, a securities account with a financial institution or a securities dealer or broker and any cash balance in a brokerage account with a financial institution or a securities dealer or broker or cash, interest, earnings or dividends earned or declared on a security in an account, a reinvestment account or a brokerage account, whether or not credited to the account before the owner’s death.

(2) A cash balance or other property held for or due to the owner of a security as a replacement for or product of an account security, whether or not credited to the account before the owner’s death.

“State.” Any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico and any territory or possession subject to the legislative authority of the United States.

§ 6402. Registration in beneficiary form.

Only individuals whose registration of a security shows sole ownership by one individual or multiple ownership by two or more with right of survivorship, rather than as tenants in common, may obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants with right of survivorship, as tenants by the entireties or as owners of community property held in survivorship form and not as tenants in common.

§ 6403. Law applicable to registration.

A security may be registered in beneficiary form if the form is authorized by this or a similar statute of the state of organization of the issuer or registering entity, the location of the registering entity’s principal office, the office of its transfer agent or its office making the registration or by this or

a similar statute of the law of the state listed as the owner's address at the time of registration. A registration governed by the law of a jurisdiction in which this or similar legislation is not in force or was not in force when a registration in beneficiary form was made is nevertheless presumed to be valid and authorized as a matter of contract law.

§ 6404. Origination of registration in beneficiary form.

A security, whether evidenced by certificate or account, is registered in beneficiary form when the registration includes a designation of a beneficiary, which may include a trustee of a trust, to take the ownership at the death of the owner or the deaths of all multiple owners.

§ 6405. Form of registration in beneficiary form.

Registration in beneficiary form may be shown by the words "transfer on death" or the acronym "TOD," or by the words "pay on death" or the acronym "POD," after the name of the registered owner and before the name of a beneficiary.

§ 6406. Effect of registration in beneficiary form.

The designation of a TOD beneficiary on a registration in beneficiary form has no effect on ownership until the owner's death. A registration of a security in beneficiary form may be canceled or changed at any time by the sole owner or all then surviving owners, without the consent of the beneficiary.

§ 6407. Ownership on death of owner.

On death of a sole owner or the last to die of all multiple owners, ownership of securities registered in beneficiary form passes to the beneficiary or beneficiaries who survive all owners. On proof of death of all owners and compliance with any applicable requirements of the registering entity, a security registered in beneficiary form may be reregistered in the name of the beneficiary or beneficiaries who survived the death of all owners. Until division of the security after the death of all owners, multiple beneficiaries surviving the death of all owners hold their interests as tenants in common. If no beneficiary survives the death of all owners, the security belongs to the estate of the deceased sole owner or the estate of the last to die of all multiple owners.

§ 6408. Protection of registering entity.

(a) General rule.—A registering entity is not required to offer or to accept a request for security registration in beneficiary form. If a registration in beneficiary form is offered by a registering entity, the owner requesting registration in beneficiary form assents to the protections given to the registering entity by this chapter.

(b) Implementation.—By accepting a request for registration of a security in beneficiary form, the registering entity agrees that the registration will be implemented on death of the deceased owner as provided in this chapter.

(c) Discharge.—A registering entity is discharged from all claims to a security by the estate, creditors, heirs or devisees of a deceased owner if it registers a transfer of a security in accordance with section 6407 (relating to

ownership on death of owner) and does so in good faith reliance on the registration, on this chapter and on information provided to it by affidavit of the personal representative of the deceased owner or by the surviving beneficiary or by the surviving beneficiary's representatives, or other information available to the registering entity. The protections of this chapter do not extend to a reregistration or payment made after the registering entity has received written notice from any claimant to any interest in the security objecting to implementation of a registration in beneficiary form. No other notice or other information available to the registering entity affects its right to protection under this chapter.

(d) Rights of beneficiaries not affected.—The protection provided by this chapter to the registering entity of a security does not affect the rights of beneficiaries in disputes between themselves and other claimants to ownership of the security transferred or its value or proceeds.

§ 6409. Nontestamentary transfer on death.

(a) General rule.—A transfer on death resulting from a registration in beneficiary form is effective by reason of the contract regarding the registration between the owner and the registering entity and this chapter and is not testamentary.

(b) Creditors.—This chapter does not limit the rights of creditors of security owners against beneficiaries and other transferees under other laws of this Commonwealth.

§ 6410. Terms, conditions and forms for registration.

(a) Terms and conditions.—A registering entity offering to accept registrations in beneficiary form may establish the terms and conditions under which it will receive requests for registrations in beneficiary form and for implementation of registrations in beneficiary form, including requests for cancellation of previously registered TOD beneficiary designations and requests for reregistration to effect a change of beneficiary. The terms and conditions so established may provide for proving death, avoiding or resolving any problems concerning fractional shares, designating primary and contingent beneficiaries and substituting a named beneficiary's descendants to take in the place of the named beneficiary in the event of the beneficiary's death. Substitution may be indicated by appending to the name of the primary beneficiary the letters "LDPS," standing for "lineal descendants per stirpes." This designation substitutes a deceased beneficiary's descendants who survive the owner for a beneficiary who fails to so survive, the descendants to be identified and to share in accordance with the law of the beneficiary's domicile at the owner's death governing inheritance by descendants of an intestate. Other forms of identifying beneficiaries who are to take on one or more contingencies, and rules for providing proofs and assurances needed to satisfy reasonable concerns by registering entities regarding conditions and identities relevant to accurate implementation of registrations in beneficiary form, may be contained in a registering entity's terms and conditions.

(b) Forms.—The following are illustrations of registrations in beneficiary form which a registering entity may authorize:

(1) Sole owner-sole beneficiary: John S. Brown TOD (or POD) John S. Brown, Jr., or John S. Brown TOD to Sally Smith, trustee under my trust (under will or deed) dated.

(2) Multiple owners-sole beneficiary: John S. Brown Mary B. Brown JT TEN TOD John S. Brown, Jr.

(3) Multiple owners-primary and secondary (substituted) beneficiaries: John S. Brown Mary B. Brown JT TEN TOD John S. Brown, Jr., SUB BENE Peter Q. Brown or John S. Brown Mary B. Brown JT TEN TOD John S. Brown, Jr., LDPS.

§ 6411. Transfers of securities and security accounts.

(a) Payment of inheritance tax.—No corporation, financial institution, broker or similar entity shall transfer on its books or issue a new certificate for any share of its capital stock, its registered bonds, a security or a security account, belonging to or standing in the name of a resident decedent, belonging to or standing in the joint names of a resident decedent and one or more persons, held in trust by or for a resident decedent or in a beneficiary form indicating that a resident decedent was the present owner or became the owner upon the death of another, unless the inheritance tax upon the transfer has actually been paid, or the written consent of the Secretary of Revenue, or its designee, is first secured, or there is presented to it an affidavit of the personal representative or heir of the decedent, or his or their attorney, that the decedent was a nonresident at the time of his death, or that the person in whose name said security, security account, shares of registered bond stands jointly with the decedent by right of survivorship was the spouse of the decedent at the time of death and that the ownership in or designation of such spouse was not created within one year before the decedent's death, or written notification of the transfer is given to the Secretary of Revenue within ten days of the transfer as provided in subsection (d).

(b) Certificate of payment.—Whenever the inheritance tax upon the transfer of a security, security account, share or registered bank referred to herein is paid, it shall be the duty of the secretary upon his motion or the request of any party in interest or of such corporation, association, financial institution, broker or similar entity to provide a certification of such payment. The assessment notice subjecting said security, etc., to tax issued by the Department of Revenue shall serve as certification of such payment if accompanied by proof of payment.

(c) Exemption.—The provisions of this section shall not apply to the transfer of stock, registered bonds, securities or a securities account assigned by a decedent before his death as collateral security for a loan, provided that any lender so holding such item shall, upon selling it, send a written report to the department stating the amount for which the items were sold and the amount which was applied in reduction or payment of the loan. Any entity, hereinabove described, may transfer such item upon presentation to it of an

affidavit of the lender, or someone acting under the authority of the lender and on its behalf, that the item was held as security at the time of decedent's death.

(d) Notification.—Notification to the Secretary of Revenue shall include the name of the deceased person, the purchase date of the capital stock, registered bond, security or security account, the date of death value of the item being transferred and the name, address and social security number of the person to whom the item is being transferred.

§ 6412. Construction of chapter.

This chapter shall be liberally construed and applied to promote its underlying purposes and policy and to make uniform the laws with respect to the subject of this chapter among states enacting it. Unless displaced by the particular provisions of this chapter, the principles of law and equity supplement its provisions.

§ 6413. Application of chapter.

This chapter applies to registration of securities in beneficiary form made before or after the effective date of this chapter by decedents dying on or after the effective date of this chapter.

Section 2. Title 20 is amended by adding sections to read:

§ 7144. *Reports for school district trustees.*

(a) *Scope.—This section applies if a school district is a trustee of land in accordance with all of the following:*

- (1) *The land is held for the benefit of the public.*
- (2) *The land is not used directly for school purposes.*

(b) *Requirement.—*

(1) *By January 30, the school district shall prepare a report for the prior year concerning the trust.*

(2) *The report shall detail all of the following:*

- (i) *Revenues generated.*
- (ii) *Expenses incurred.*
- (iii) *Balance of funds held by the school district as trustee.*
- (iv) *A statement regarding the activities taken by the trustee during the prior year to advance the purposes of the trust.*

(3) *The report must be certified as correct by the district superintendent.*

(4) *The report shall be made public as follows:*

- (i) *The report shall be published in 14-point type in a newspaper of general circulation in each county in which the land is located.*
- (ii) *The report shall be available during business hours for inspection and copying at the office of the district superintendent. A reasonable fee may be charged for copying.*

§ 7145. *Jurisdiction.*

Notwithstanding 42 Pa.C.S. § 931 (relating to original jurisdiction and venue), jurisdiction over an action involving land referred to in section

7144 (relating to reports for school district trustees) shall be vested in the court of common pleas in the judicial district where:

- (1) all of the land is located; or*
- (2) more than 50% of the land is located.*

Section 3. The report required by 20 Pa.C.S. § 7144(b)(1) shall apply to calendar years beginning with 1996.

Section 4. This act shall take effect as follows:

- (1) The addition of 20 Pa.C.S. Ch. 64 shall take effect in 60 days.
- (2) The remainder of this act shall take effect immediately.

APPROVED—The 18th day of December, A.D. 1996.

THOMAS J. RIDGE